Petitioners \* \* \* \* \* \* \* \* \* \*

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Steven and Adrian Marks. The Petitioners request relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 40 feet in lieu of the required 50 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition was Steven Marks, property owner. Appearing as a Protestant in the matter was Harwood Nichols, adjoining property owner.

Testimony indicated that the subject property, known as 3908 Log Trail Way, consists of 1.88 acres, more or less, zoned R.C. 5 and is currently unimproved. Said property is located within the Worthington Hillside II subdivision of northern Reisterstown. The Petitioners are desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Due to the narrow width of the lot, the requested variance is needed in order to develop the property as proposed. The Petitioner testified that he hired an architect to design a home specific to the needs of his family and consistent with other homes in the community. Testimony indicated that the Petitioner was given conflicting information concerning the boundaries of the subject lot, which is deep

and narrow in width, but, it was believed that the proposed dwelling could be placed on the lot without the need for a variance. However, when the property was staked out, the error was discovered and the Petitioners were advised that a variance would be necessary. Testimony indicated that the proposed dwelling will cost approximately \$500,000 to construct and has already received approval from the Gaylord Brooks Architectural Committee. Inc., who oversees development within this subdivision.

Appearing and testifying in opposition to the Petitioners' request was Harwood Nichols, who resides at 3910 Log Trail Way, immediately adjacent to and south of the subject property. Mr. Nichols testified that he believes zoning is in place to preserve the integrity of the neighborhood and feels that the granting of any variance in this case could adversely affect any future development that might take place in his community. He further believes that the Petitioners should be made to adhere to the setback requirements and that the variance should not be granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

- 2-

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance requested is not granted. In the opinion of this Deputy Zoning Commissioner, the Petitioners' request is within the spirit and intent of the B.C.Z.R. and will not result in any injury to the public good. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this  $3^{rd}$ \_\_\_ day of August, 1993 that the Petition for Variance requesting relief from Section 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 40 feet in lieu of the required 50 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is

> > - 3-

RECEIVED FOR FILING

reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

for Baltimore County

TMK:bjs

**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386 August 4, 1993

Mr. & Mrs. Steven Marks 114 Gentlebrook Road Owings Mills, Maryland 21117

RE: PETITION FOR VARIANCE N/S Log Trail Way, 270' E of Timber View Way (3908 Log Trail Way) 4th Election District - 3rd Councilmanic District Steven Marks, et ux - Petitioners Case No. 93-464-A

Dear Mr. & Mrs. Marks:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Deputy Zoning Commissioner for Baltimore County

TMK:bjs

cc: Mr. Harwood Nichols 3910 Log Trail Way, Reisterstown, Md. 21136

People's Counsel

File

Petition for Variance 93-464-A to the Zoning Commissioner of Baltimore County for the property located at 3908 Log TRAil Way (Lot 23)
which is presently zoned RC-5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) /ACH.3.B.3.BCZR., TO

PERMIT A SIDE YARD SETBACK OF 40' IN LIEU OF THE REQUIRED 50'

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or We received conflicting site plans from a surveyor that differed from record platts on the property. The lot is a narrow and deep lot. The home that we are proposing remains consistent with the other homes in the neighborhood by keeping similar widths. I have already invested six months of my time preparing construction documents and have incurred thousands of dollars in expense by purchasing plans and hiring decorators. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

		We do solemnly deciare and affirm, under the penalties of perjury, that I/we are t legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee:		Legal Owner(s)
(Type or Print Name)		STEVEN MARKS (Type or Print Name)
Signature		Gleven Marks
Address		STEVEN HARKS (Type or Print Name)  Liberan Marks Surfature  ABRIAN MARKS (Type or Print Name)
City	State Zipcode	Adrian Marks Signature
Attorney for Petitioner:		
(Type or Print Name)		114 Gentle Jacok Pd 3630065
Bignature		Owings Mills HD 21117 Cay State Zipcode
		Name, Address and phone number of representative to be contacted.
Address	Phone No.	STEVEN MARKS
City	State Zipcode	114 Gentle brook Rd 467454
		OFFICE USE ONLY
		ESTIMATED LENGTH OF HEARING
<b>&gt;</b>	•	the following dates Next Two Months
		REVIEWED BY: JCM DATE 6-23-9

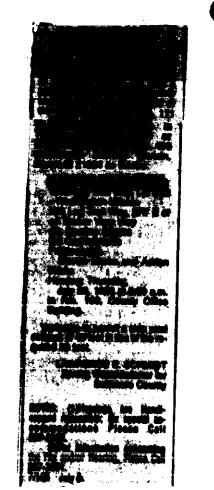
June 3, 1993

ZONING DESCRIPTION 3908 LOG TRAIL WAY ELECTION DISTRICT 4 COUNCILMANIC DISTRICT 3

Beginning at a point on the North side of Log Trail Way which is 50 feet wide at a distance of 270 feet North of the centerline of the nearest improved intersecting street, Timber View Way, which is 50 feet wide. Being Lot #23, Section #2 in the subdivision of Worthington Hillside II as recorded in Baltimore County Plat Book #52, Folio #23, containing 81892.8 SF, 1.88 AC

Petitioner: Tom + Adrian Marks Location of property: 3908, but #23, bog Trial Non Location of Signer Facing foodway on property of Blitioner 

- 4-



CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_ successive

THE JEFFERSONIAN.

Development Management
111 West Chesupeake Avenue
Towson, Maryland 21204

STEUEN MARKS - 3908 LOG TRAIL WM VARIANCE (010) - 50,00

TO: PUTUKENT PUBLISHING COMPANY July 8, 1993 Issue - Jeffersonian

Please foward billing to:

Steven and Adrian Marks 114 Gentlebrook Road Owings Hills, Maryland 21117 (410) 363-0065

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Roum 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-464-A (Item 469) 3908 Log Trail Way, Lot #23 - Worthington Hillside N/S Log Trail Way, 270' E of c/l Timber View Way 4th Election District - 3rd Councilmanic Petitioner(s): Steven Marks and Adrian Marks

Variance to permit a side yard setback of 40 feet in lieu of the required 50 feet.

HEARING: THURSDAY, JULY 29, 1993 at 9:00 a.m. in Rm. 106, County Office Building.

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR IMPORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

**Baltimore County Government** Office of Zoning Administration and Development Management

(410) 887-3353

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111 West Chesapeake Avenue

Towson, MD 21204

cc: Steven and Adrian Marks/114 Gentlebrook Road/Owings Mills MD 21117

NOTES: (1) ZOWING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEARE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMPIDATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Space shall comply with the 1991 Life Safety Code.

Site shall not interfere with Baltimore County's

Building shall comply with the 1991 Life Safety Code.

800 Megahertz Radio Capability.

Date July 7, 1993

TO Zoning Advisory Committee

Fire Department

FROM Jerry L. Pfeifer, Captain

No comments

No comments.

Did not receive plan.

SUBJECT July 12, 1993 - Meeting

Baltimore County Government Office of Zoning Administration and Development Management



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

July 19, 1993

Mr. and Mrs. Steven Marks 114 Gentlebrook Road Owings Mills, MD 21117

> RE: Case No. 93-464-A, Item No. 469 Petitioner: Steven Marks, et ux Petition for Variance

Dear Mr. and Mrs. Marks:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 23, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Maryland Department of Transportation State Highway Administration

O. James Lighthizer Secretary Hal Kassoff Administrator

7-7-93 Re: BALTC, CO.
Item No.: \$\psi \ 469 (\(\frac{1}{2}C\)\)

Zoning Administration and Development Management County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Dear Ms. Kehring:

Ms. Helene Kehring

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief **Engineering Access Permits** 

My telephone number is \_\_\_\_\_ Teletypewriter for impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

DATE: July 1, 1993

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director Zoning Administration and

Development Management

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 449, 451, 452, 463, 464, 465, 466, 469 and 472.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

PK/JL:lw

449.ZAC/ZAC1

JLP/dal cc: File ZADM

June 23, 1993

93-464-A

Dear "Official":

I am respectfully requesting that our hearing take place as soon as possible.

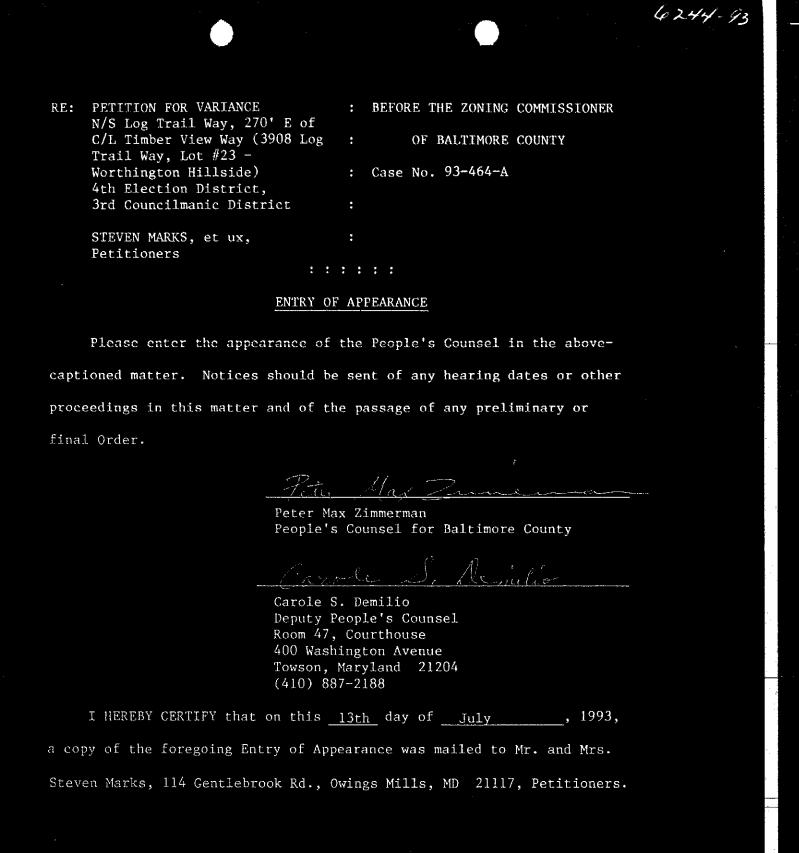
I have been approved for my construction loan and have a narrow window of time to consumate my construction loan. In addition, I am presently renting a townhome of which the owner is actively trying to sell.

I would appreciate your consideration in getting an early hearing

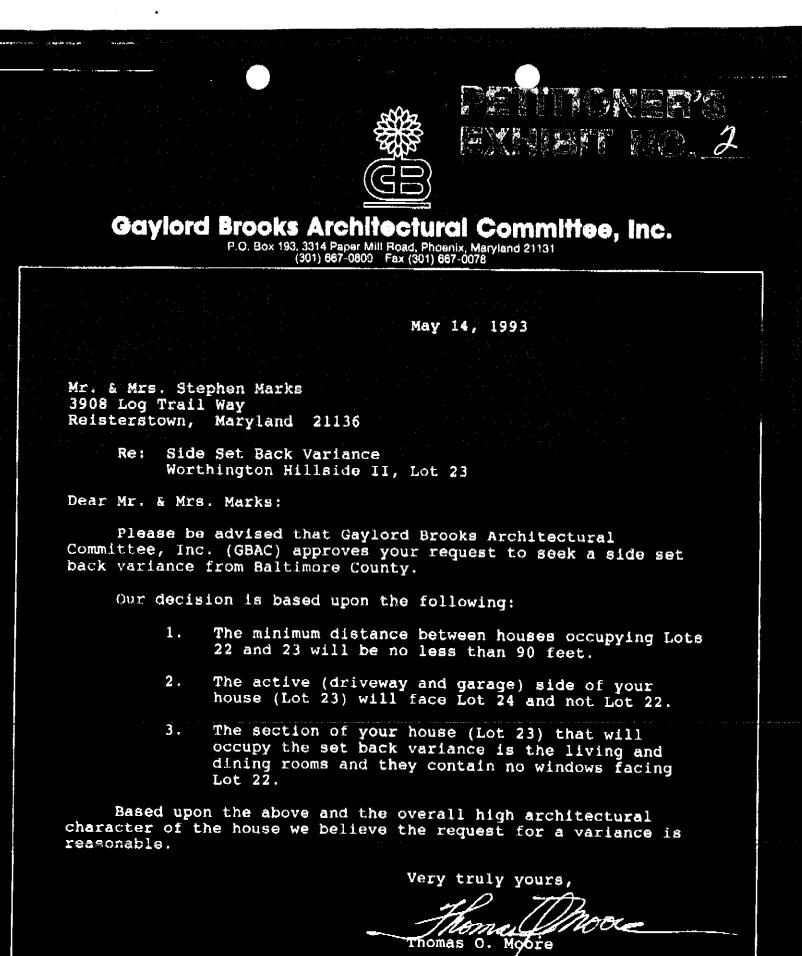
frun m Mal

SMM/dja

CPS-008



Peter Max Zimmerman



TOM/bfc

